

PART III - CALIFORNIA PENAL CODES

Sections Applicable to Grand Jury Activities

(<http://www.leginfo.ca.gov/calaw.html>)

TITLE 4. GRAND JURY PROCEEDINGS

CHAPTER 1. GENERAL PROVISIONS

§888 A grand jury is a body of the required number of persons returned from the citizens of the county before a court of competent jurisdiction, and sworn to inquire of public offenses committed or triable within the county.

Each grand jury or, if more than one has been duly impaneled pursuant to Sections 904.5 to 904.9, inclusive, one grand jury in each county, shall be charged and sworn to investigate or inquire into county matters of civil concern, such as the needs of county officers, including the abolition or creation of offices for, the purchase, lease, or sale of equipment for, or changes in the method or system of, performing the duties of the agencies subject to investigation pursuant to Section 914.1.

§888.2 As used in this title as applied to a grand jury, "required number" means:

- (a) Twenty-three in a county having a population exceeding 4,000,000.
- (b) Eleven in a county having a population of 20,000 or less, upon the approval of the board of supervisors.
- (c) Nineteen in all other counties.

§889 An indictment is an accusation in writing, presented by the grand jury to a competent court, charging a person with a public offense.

§890 Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are fifteen dollars (\$15) a day for each day's attendance as a grand juror, and the mileage reimbursement applicable to county employees for each mile actually traveled in attending court as a grand juror.

§890.1 The per diem and mileage of grand jurors where allowed by law shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county.

§891 Every person who, by any means whatsoever, willfully and knowingly, and without knowledge and consent of the grand jury, records, or attempts to record, all or part of the proceedings of any grand jury while it is deliberating or voting, or listens to or observes, or attempts to

listen to or observe, the proceedings of any grand jury of which he is not a member while such jury is deliberating or voting is guilty of a misdemeanor.

This section is not intended to prohibit the taking of notes by a grand juror in connection with and solely for the purpose of assisting him in the performance of his duties as such juror.

§892 The grand jury may proceed against a corporation.

CHAPTER 2. FORMATION OF GRAND JURY

Article 2 – Listing and Selection of Grand Jury

§895 During the month preceding the beginning of the fiscal year of the county, the superior court of each county shall make an order designating the estimated number of grand jurors that will, in the opinion of the court, be required for the transaction of the business of the court during the ensuing fiscal year as provided in Section 905.5.

§896 (a) Immediately after such order is made, the court shall select the grand jurors required by personal interview for the purpose of ascertaining whether they possess the qualifications prescribed by subdivision (a) of Section 893. If a person so interviewed, in the opinion of the court, possesses such qualifications, in order for his name to be listed he shall sign a statement declaring that he will be available for jury service for the number of hours usually required of a member of the grand jury in that county.

(b) The selections shall be made of men and women who are not exempt from serving and who are suitable and competent to serve as grand jurors pursuant to Sections 893, 898, and 899. The court shall list the persons so selected and required by the order to serve as grand jurors during the ensuing fiscal year of the county, or until a new list of grand jurors is provided, and shall at once place this list in the possession of the county clerk.

§898 The list of grand jurors made in a county having a population in excess of four million shall contain the number of persons which has been designated by the court in its order.

§899 The names for the grand jury list shall be selected from the different wards, judicial districts, or supervisorial districts of the respective counties in proportion to the number of inhabitants therein, as nearly as the same can be estimated by the persons making the lists. The

grand jury list shall be kept separate and distinct from the trial jury list. In a county of the first class, the names for such list may be selected from the county at large.

§900 On receiving the list of persons selected by the court, the county clerk shall file it in his office and have such list, which shall include the name of the judge who selected each person on the list, published one time in a newspaper of general circulation, as defined in Section 6000 of the Government Code, in the county. The county clerk shall thereupon do either of the following:

(a) Write down the names on the list onto separate pieces of paper of the same size and appearance, fold each piece so as to conceal the name thereon, and deposit the pieces in a box to be called the "grand jury box."

(b) Assign a number to each name on the list and place, in a box to be called the "grand jury box," markers of the same size, shape, and color, each containing a number which corresponds with a number on the list.

§901 (a) The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.

(b) If the superior court so decides, the presiding judge may name up to 10 regular jurors not previously so named, who served on the previous grand jury and who so consent, to serve for a second year.

(c) The court may also decide to select grand jurors pursuant to Section 908.2.

§902 The names of persons drawn for grand jurors shall be drawn from the grand jury box by withdrawing either the pieces of paper placed therein pursuant to subdivision (a) of Section 900 or the markers placed therein pursuant to subdivision (b) of Section 900. If, at the end of the fiscal year of the county, there are the names of persons in the grand jury box who have not been drawn during the fiscal year to serve and have not served as grand jurors, the names of such persons may be placed on the list of grand jurors drawn for the succeeding fiscal year.

Article 4 – Impaneling of Grand Jury

§904 Every superior court, whenever in its opinion the public interest so requires, shall make and file with the county clerk an order directing a

grand jury to be drawn. Such order shall designate the number of grand jurors to be drawn, which shall not be less than 29 or more than 40 in counties having a population exceeding four million and not less than 25 nor more than 30 in other counties.

- §904.4** (a) In any county having a population of more than 370,000 but less than 400,000 as established by Section 28020 of the Government Code, the presiding judge of the superior court, upon application by the district attorney, may order and direct the drawing and empanelment at any time of one additional grand jury.
- (b) The presiding judge may select persons, at random, from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.
- (c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of empanelment, but may be discharged at any time within the one-year period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.
- (d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters that are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters that the regular grand jury is inquiring into at the time of its empanelment.
- (e) If an additional grand jury is also authorized by another section, the county may impanel the additional grand jury authorized by this section, or by the other section, but not both.

- §904.6** (a) In any county or city and county, the presiding judge of the superior court may order and direct the empanelment, at any time, of one additional grand jury pursuant to this section.
- (b) The presiding judge shall select persons, at random, from the list of trial jurors in civil and criminal cases and shall examine them to determine if they are competent to serve as grand jurors. When a sufficient number of competent persons have been selected, they shall constitute the additional grand jury.
- (c) Any additional grand jury which is impaneled pursuant to this section may serve for a period of one year from the date of empanelment, but may be discharged at any time within the one-year

period by order of the presiding judge. In no event shall more than one additional grand jury be impaneled pursuant to this section at the same time.

(d) Whenever an additional grand jury is impaneled pursuant to this section, it may inquire into any matters which are subject to grand jury inquiry and shall have the sole and exclusive jurisdiction to return indictments, except for any matters which the regular grand jury is inquiring into at the time of its empanelment.

(e) It is the intent of the Legislature that all persons qualified for jury service shall have an equal opportunity to be considered for service as criminal grand jurors in the county in which they reside, and that they have an obligation to serve, when summoned for that purpose. All persons selected for the additional criminal grand jury shall be selected at random from a source or sources reasonably representative of a cross section of the population which is eligible for jury service in the county.

§905 In all counties there shall be at least one grand jury drawn and impaneled in each year.

§905.5 (a) Except as otherwise provided in subdivision (b), the grand jury shall be impaneled and serve during the fiscal year of the county in the manner provided in this chapter.

(b) The board of supervisors of a county may provide that the grand jury shall be impaneled and serve during the calendar year. The board of supervisors shall provide for an appropriate transition from fiscal year term to calendar year term or from calendar year term to fiscal year term for the grand jury. The provisions of subdivisions (a) and (b) of Section 901 shall not be deemed a limitation on any appropriate transition provisions as determined by resolution or ordinance; and, except as otherwise provided in this chapter, no transition grand jury shall serve more than 18 months.

§906 The order shall designate the time at which the drawing will take place. The names of the grand jurors shall be drawn, and the list of names certified and summoned, as is provided for drawing and summoning trial jurors. The names of any persons drawn, who are not impaneled upon the grand jury, may be again placed in the grand jury box.

§907 Any grand juror summoned, who willfully and without reasonable excuse fails to attend, may be attached and compelled to attend and the court may also impose a fine not exceeding fifty dollars (\$50), upon which execution may issue. If the grand juror was not personally

served, the fine shall not be imposed until upon an order to show cause an opportunity has been offered the grand juror to be heard.

§908 If the required number of the persons summoned as grand jurors are present and not excused, such required number shall constitute the grand jury. If more than the required number of such persons are present, the clerk shall write their names on separate ballots, which he shall fold so that the names cannot be seen, place them in a box, and draw out the required number of them. The persons whose names are on the ballots so drawn shall constitute the grand jury. If less than the required number of such persons are present, the panel may be filled as provided in Section 226 of the Code of Civil Procedure. If more of the persons summoned to complete a grand jury attend than are required, the requisite number shall be obtained by writing the names of those summoned and not excused on ballots, depositing them in a box, and drawing as above provided.

§908.1 When, after the grand jury consisting of the required number of persons has been impaneled pursuant to law, the membership is reduced for any reason, such vacancies within an existing grand jury may be filled, so as to maintain the full membership at the required number of persons, by the clerk of the superior court, in the presence of the court, drawing out sufficient names to fill the vacancies from the grand jury box, pursuant to law, or from a special venire as provided in Section 226 of the Code of Civil Procedure. No person selected as a grand juror to fill a vacancy pursuant to this section shall vote as a grand juror on any matter upon which evidence has been taken by the grand jury prior to the time of his selection.

§908.2 (a) Upon the decision of the superior court pursuant to Section 901 to adopt this method of selecting grand jurors, when the required number of persons have been impaneled as the grand jury pursuant to law, the clerk shall write the names of each such person on separate ballots. The clerk shall fold the ballots so that the names cannot be seen, place them in a box, and draw out half of such ballots, or in a county where the number of grand jurors is uneven, one more than half. The persons whose names are on the ballots so drawn shall serve for 12 months until July 1 of the following year. The persons whose names are not on the ballots so drawn shall serve for six months until January 1 of the following year.

(b) Each subsequent year, on January 2 and July 2, a sufficient number of grand jurors shall be impaneled to replace those whose service concluded the previous day. Those persons impaneled on January 2, shall serve until January 1 of the following year. Those

persons impaneled on July 2, shall serve until July 1 of the following year. No person shall serve on the grand jury for more than one year.

(c) The provisions of subdivisions (a) and (b) shall not be applicable to the selection of grand jurors for an additional grand jury authorized pursuant to Sections 904.5, 904.6, 904.7, 904.8, and 904.9.

- §909** Before accepting a person drawn as a grand juror, the court shall be satisfied that such person is duly qualified to act as such juror. When a person is drawn and found qualified he shall be accepted unless the court, on the application of the juror and before he is sworn, excuses him from such service for any of the reasons prescribed in this title or in Chapter 1 (commencing with Section 190), Title 3, Part 1 of the Code of Civil Procedure.
- §910** No challenge shall be made or allowed to the panel from which the grand jury is drawn, nor to an individual grand juror, except when made by the court for want of qualification, as prescribed in Section 909.
- §911** The following oath shall be taken by each member of the grand jury: "I do solemnly swear (affirm) that I will support the Constitution of the United States and of the State of California, and all laws made pursuant to and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this state, committed or triable within this county, of which the grand jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury. I will keep the charge that will be given to me by the court."
- §912** From the persons summoned to serve as grand jurors and appearing, the court shall appoint a foreman. The court shall also appoint a foreman when the person already appointed is excused or discharged before the grand jury is dismissed.
- §913** If a grand jury is not in existence, the Attorney General may demand the impaneling of a grand jury by those charged with the duty to do so, and upon such demand by him, it shall be their duty to do so.

CHAPTER 3 – POWERS AND DUTIES OF GRAND JURY

Article 1 – General Provisions

§914 (a) When the grand jury is impaneled and sworn, it shall be charged by the court. In doing so, the court shall give the grand jurors such information as it deems proper, or as is required by law, as to their duties, and as to any charges for public offenses returned to the court or likely to come before the grand jury.

(b) To assist a grand jury in the performance of its statutory duties regarding civil matters, the court, in consultation with the district attorney, the county counsel, and at least one former grand juror, shall ensure that a grand jury that considers or takes action on civil matters receives training that addresses, at a minimum, report writing, interviews, and the scope of the grand jury's responsibility and statutory authority.

(c) Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources.

§914.1 When a grand jury is impaneled, for purposes which include the investigation of, or inquiry into, county matters of civil concern, the judge of the superior court of the county, in addition to other matters requiring action, shall call its attention to the provisions of Chapter 1 (commencing with Section 23000) of Division 1 of Title 3, and Sections 24054 and 26525 of the Government Code, and instruct it to ascertain by a careful and diligent investigation whether such provisions have been complied with, and to note the result of such investigation in its report. At such time the judge shall also inform and charge the grand jury especially as to its powers, duties, and responsibilities under Article 1 (commencing with Section 888) of Chapter 2, and Article 2 (commencing with Section 925), Article 3 (commencing with Section 934) of this chapter, Article 3 (commencing with Section 3060) of Chapter 7 of Division 4 of Title 1 of the Government Code, and Section 17006 of the Welfare and Institutions Code.

24054. Any officer authorizing, aiding to authorize, auditing, allowing, or paying any claim or demand upon or against the treasury of any county, or any fund thereof, in violation of law or of the constitution is liable personally and upon his official bond to the person damaged by such illegal action, to the extent of his loss by reason of the nonpayment of his claim.

26525. If the board of supervisors without authority of law orders any amount paid as salary, fees, or for any other purposes and the money

is actually paid, or if any county officer draws any warrant in his own favor or in favor of any other person without authorization by the board or law and the warrant is paid, the district attorney shall institute suit in the name of the county to recover the money paid, and 20 percent damages for the use thereof. If the money has not been paid on the order or warrants, the district attorney upon receiving notice thereof shall commence suit in the name of the county to restrain the payment. An order of the board is not necessary in order to maintain the suits.

17006. (a) The board of supervisors of every county as a board, or by committee or by any person or society as it may authorize, shall investigate every application for relief from the funds of the county, shall supervise by periodic visitation every person receiving that relief, shall devise ways and means for bringing persons unable to maintain themselves to self-support, and shall keep full and complete records of the investigation, supervision, relief, and rehabilitation as shall be prescribed by the department. These records shall be confidential and shall not be open to examination or inspection, except by the grand jury of the county or by a board or an officer of the state or the county charged with the supervision or direction of that relief or with the control or expenditure of funds applicable to that relief. Any citizen shall be entitled to demand and receive from the board, officer, committee, person, or society having custody of these records a statement of the amount, character, and value of the relief received by any person.

(b) (1) This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against any county or state welfare worker, or any criminal act witnessed by any county or state welfare worker while involved in the administration of public social services at any location. Further, this section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by an applicant or recipient against any off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person committing the offense knows or reasonably should know that the victim is a state or county welfare worker.

(b) (2) For purposes of this subdivision, "criminal act" means only an act that is in violation of state or local law.

(b) (3) Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's name, physical description, and address.

- §914.5** The grand jury shall not spend money or incur obligations in excess of the amount budgeted for its investigative activities pursuant to this chapter by the county board of supervisors unless the proposed expenditure is approved in advance by the presiding judge of the superior court after the board of supervisors has been advised of the request.
- §915** When the grand jury has been impaneled, sworn, and charged, it shall retire to a private room, except when operating under a finding pursuant to Section 939.1, and inquire into the offenses and matters of civil concern cognizable by it. On the completion of the business before the grand jury or expiration of the term of prescribed service of one or more grand jurors, the court shall discharge it or the affected individual jurors.
- §916** Each grand jury shall choose its officers, except the foreman, and shall determine its rules of proceeding. Adoption of its rules of procedure and all public actions of the grand jury, whether concerning criminal or civil matters unless otherwise prescribed in law, including adoption of final reports, shall be only with the concurrence of that number of grand jurors necessary to find an indictment pursuant to Section 940. Rules of procedure shall include guidelines for that grand jury to ensure that all findings included in its final reports are supported by documented evidence, including reports of contract auditors or consultants, official records, or interviews attended by no fewer than two grand jurors and that all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable.
- §916.1** If the foreman of a grand jury is absent from any meeting or if he is disqualified to act, the grand jury may select a member of that body to act as foreman pro tempore, who shall perform the duties, and have all the powers, of the regularly appointed foreman in his absence or disqualification.
- §917** The grand jury may inquire into all public offenses committed or triable within the county and present them to the court by indictment.
- §918** If a member of a grand jury knows, or has reason to believe, that a public offense, triable within the county, has been committed, he may declare it to his fellow jurors, who may thereupon investigate it.

- §919** (a) The grand jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted.
- (b) The grand jury shall inquire into the condition and management of the public prisons within the county.
- (c) The grand jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within the county.
- §920** The grand jury may investigate and inquire into all sales and transfers of land, and into the ownership of land, which, under the state laws, might or should escheat to the State of California. For this purpose, the grand jury may summon witnesses before it and examine them and the records. The grand jury shall direct that proper escheat proceedings be commenced when, in the opinion of the grand jury, the evidence justifies such proceedings.
- §921** The grand jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county.
- §922** The powers and duties of the grand jury in connection with proceedings for the removal of district, county, or city officers are prescribed in Article 3 (commencing with Section 3060), Chapter 7, Division 4, Title 1, of the Government Code.
- §923** (a) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, direct the grand jury to convene for the investigation and consideration of those matters of a criminal nature that he or she desires to submit to it. He or she may take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.
- (b) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, petition the court to impanel a special grand jury to investigate, consider, or issue indictments for any of the activities subject to fine, imprisonment, or asset forfeiture under Section 14107 of the Welfare and Institutions Code. He or she may take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. If the evidence presented

to the grand jury shows the commission of an offense or offenses for which jurisdiction would be in a county other than the county where the grand jury is impaneled, the Attorney General, with or without the concurrence of the district attorney in the county with jurisdiction over the offense or offenses, may petition the court to impanel a special grand jury in that county. Notwithstanding any other provision of law, upon request of the Attorney General, a grand jury convened by the Attorney General pursuant to this subdivision may submit confidential information obtained by that grand jury, including, but not limited to documents and testimony, to a second grand jury that has been impaneled at the request of the Attorney General pursuant to this subdivision in any other county where venue for an offense or offenses shown by evidence presented to the first grand jury is proper. All confidentiality provisions governing information, testimony, and evidence presented to a grand jury shall be applicable except as expressly permitted by this subdivision. The Attorney General shall inform the grand jury that transmits confidential information and the grand jury that receives confidential information of any exculpatory evidence, as required by Section 939.71. The grand jury that transmits information to another grand jury shall include the exculpatory evidence disclosed by the Attorney General in the transmission of the confidential information. The Attorney General shall inform both the grand jury transmitting the confidential information and the grand jury receiving that information of their duties under Section 939.7. A special grand jury convened pursuant to this subdivision shall be in addition to the other grand juries authorized by this chapter or Chapter 2 (commencing with Section 893).

(c) Upon certification by the Attorney General, a statement of the costs directly related to the empanelment and activities of the grand jury pursuant to subdivision (b) from the presiding judge of the superior court where the grand jury was impaneled shall be submitted for state reimbursement of the costs to the county.

§924 Every grand juror who willfully discloses the fact of an information or indictment having been made for a felony, until the defendant has been arrested, is guilty of a misdemeanor.

§924.1 (a) Every grand juror who, except when required by a court, willfully discloses any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury has said, or in what manner he or she or any other grand juror has voted on a matter before them, is guilty of a misdemeanor.

(b) Every interpreter for the disabled appointed to assist a member of the grand jury pursuant to Section 939.11 who, except when required

by a court, willfully discloses any evidence adduced before the grand jury, or anything which he or she or any member of the grand jury has said, or in what manner any grand juror has voted on a matter before them, is guilty of a misdemeanor.

§924.2 Each grand juror shall keep secret whatever he himself or any other grand juror has said, or in what manner he or any other grand juror has voted on a matter before them. Any court may require a grand juror to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before the grand jury by any person, upon a charge against such person for perjury in giving his testimony or upon trial therefore.

§924.3 A grand juror cannot be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty in making an accusation or giving testimony to his fellow jurors.

§924.4 Notwithstanding the provisions of Sections 924.1 and 924.2, any grand jury or, if the grand jury is no longer impaneled, the presiding judge of the superior court, may pass on and provide the succeeding grand jury with any records, information, or evidence acquired by the grand jury during the course of any investigation conducted by it during its term of service, except any information or evidence that relates to a criminal investigation or that could form part or all of the basis for issuance of an indictment. Transcripts of testimony reported during any session of the grand jury shall be made available to the succeeding grand jury upon its request.

§924.6 If no indictment is returned, the court that impaneled the grand jury shall, upon application of either party, order disclosure of all or part of the testimony of a witness before the grand jury to a defendant and the prosecutor in connection with any pending or subsequent criminal proceeding before any court if the court finds following an in camera hearing, which shall include the court's review of the grand jury's testimony, that the testimony is relevant, and appears to be admissible.

Article 2 – Investigation of County, City and District Affairs

§925 The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to

state law for which the officers of the county are serving in their ex officio capacity as officers of the districts.

The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by or for the board of supervisors pursuant to Section 25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county. The grand jury may enter into a joint contract with the board of supervisors to employ the services of an expert as provided for in Section 926.

(a) The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit.

The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency.

As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.

§926

(a) If, in the judgment of the grand jury, the services of one or more experts are necessary for the purposes of Sections 925, 925a, 928, 933.1, and 933.5 or any of them, the grand jury may employ one or more experts, at an agreed compensation, to be first approved by the court. If, in the judgment of the grand jury, the services of assistants to such experts are required, the grand jury may employ such assistants, at a compensation to be agreed upon and approved by the court. Expenditures for the services of experts and assistants for the purposes of Section 933.5 shall not exceed the sum of thirty thousand dollars (\$30,000) annually, unless such expenditures shall also be approved by the board of supervisors.

(b) When making an examination of the books, records, accounts, and documents maintained and processed by the county assessor, the

grand jury, with the consent of the board of supervisors, may employ expert auditors or appraisers to assist in the examination. Auditors and appraisers, while performing pursuant to the directive of the grand jury, shall have access to all records and documents that may be inspected by the grand jury subject to the same limitations on public disclosure as apply to the grand jury.

(c) Any contract entered into by a grand jury pursuant to this section may include services to be performed after the discharge of the jury, but in no event may a jury contract for services to be performed later than six months after the end of the fiscal year during which the jury was impaneled.

(d) Any contract entered into by a grand jury pursuant to this section shall stipulate that the product of that contract shall be delivered on or before a time certain to the then-current grand jury of that county for such use as that jury finds appropriate to its adopted objectives.

§927 A grand jury may, and when requested by the board of supervisors shall, investigate and report upon the needs for increase or decrease in salaries of the county-elected officials. A copy of such report shall be transmitted to the board of supervisors.

§928 Every grand jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year. The grand jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county.

§929 As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public part or all of the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation provided that the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released. Prior to granting approval pursuant to this section, a judge may require the redaction or masking of any part of the evidentiary material, findings, or other information to be released to the public including, but not limited to, the identity of witnesses and any testimony or materials of a defamatory or libelous nature.

- §930** If any grand jury shall, in the report above mentioned, comment upon any person or official who has not been indicted by such grand jury such comments shall not be deemed to be privileged.
- §931** All expenses of the grand jurors incurred under this article shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county.
- §932** After investigating the books and accounts of the various officials of the county, as provided in the foregoing sections of this article, the grand jury may order the district attorney of the county to institute suit to recover any money that, in the judgment of the grand jury, may from any cause be due the county. The order of the grand jury, certified by the foreman of the grand jury and filed with the clerk of the superior court of the county, shall be full authority for the district attorney to institute and maintain any such suit.
- §933** (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- (c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court,

with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

§933.05 (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or

department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

§933.06 (a) Notwithstanding Sections 916 and 940, in a county having a population of 20,000 or less, a final report may be adopted and submitted pursuant to Section 933 with the concurrence of at least 10 grand jurors if all of the following conditions are met:

- (1) The grand jury consisting of 19 persons has been impaneled pursuant to law, and the membership is reduced from 19 to fewer than 12.
- (2) The vacancies have not been filled pursuant to Section 908.1 within 30 days from the time that the clerk of the superior court is given written notice that the vacancy has occurred.
- (3) A final report has not been submitted by the grand jury pursuant to Section 933.

(b) Notwithstanding Section 933, no responsible officers, agencies, or departments shall be required to comment on a final report submitted pursuant to this section.

§933.1 A grand jury may at any time examine the books and records of a redevelopment agency, a housing authority, created pursuant to Division 24 (commencing with Section 33000) of the Health and Safety

Code, or a joint powers agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such agency or authority.

§933.5 A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission.

§933.6 A grand jury may at any time examine the books and records of any nonprofit corporation established by or operated on behalf of a public entity the books and records of which it is authorized by law to examine, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such nonprofit corporation.

Article 3 – Legal and Other Assistants for Grand Juries

§934 (a) The grand jury may, at all times, request the advice of the court, or the judge thereof, the district attorney, the county counsel, or the Attorney General. Unless advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the sessions of the grand jury.

(b) The Attorney General may grant or deny a request for advice from the grand jury. If the Attorney General grants a request for advice from the grand jury, the Attorney General shall fulfill that request within existing financial and staffing resources.

§935 The district attorney of the county may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by the grand jury, and may interrogate witnesses before the grand jury whenever he thinks it necessary. When a charge against or involving the district attorney, or assistant district attorney, or deputy district attorney, or anyone employed by or connected with the office of the district attorney, is being investigated by the grand jury, such district attorney, or assistant district attorney, or deputy district attorney, or all or anyone or more of them, shall not be allowed to be present before such grand jury when such charge is being investigated, in an official capacity but only as a witness, and he shall only be present while a witness and after his appearance as such

witness shall leave the place where the grand jury is holding its session.

§936 When requested so to do by the grand jury of any county, the Attorney General may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence in such investigation to such grand jury. The services of such special counsel and special investigators shall be a county charge of such county.

§936.5 (a) When requested to do so by the grand jury of any county, the presiding judge of the superior court may employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence of the investigation to the grand jury.

(b) Prior to the appointment, the presiding judge shall conduct an evidentiary hearing and find that a conflict exists that would prevent the local district attorney, the county counsel, and the Attorney General from performing such investigation. Notice of the hearing shall be given to each of them unless he or she is a subject of the investigation. The finding of the presiding judge may be appealed by the district attorney, the county counsel, or the Attorney General. The order shall be stayed pending the appeal made under this section.

(c) The authority to appoint is contingent upon the certification by the auditor-comptroller of the county, that the grand jury has funds appropriated to it sufficient to compensate the special counsel and investigator for services rendered pursuant to the court order. In the absence of a certification the court has no authority to appoint. In the event the county board of supervisors or a member thereof is under investigation, the county has an obligation to appropriate the necessary funds.

§936.7 (a) In a county of the eighth class, as defined by Sections 28020 and 28029 of the Government Code, upon a request by the grand jury, the presiding judge of the superior court may retain, in the name of the county, a special counsel to the grand jury. The request shall be presented to the presiding judge in camera, by an affidavit, executed by the foreperson of the grand jury, which specifies the reason for the request and the nature of the services sought, and which certifies that the appointment of the special counsel is reasonably necessary to aid the work of the grand jury. The affidavit shall be confidential and its contents may not be made public except by order of the presiding judge upon a showing of good cause. The special counsel shall be selected by the presiding judge following submission of the name of the nominee to the board of supervisors for comment. The special counsel shall be retained under a contract executed by the presiding

judge in the name of the county. The contract shall contain the following terms:

- (1) The types of legal services to be rendered to the grand jury; provided, (i) that the special counsel's duties shall not include any legal advisory, investigative, or prosecutorial service which by statute is vested within the powers of the district attorney, and (ii) that the special counsel may not perform any investigative or prosecutorial service whatsoever except upon advance written approval by the presiding judge which specifies the number of hours of these services, the hourly rate therefore, and the subject matter of the inquiry.
- (2) The hourly rate of compensation of the special counsel for legal advisory services delivered, together with a maximum contract amount payable for all services rendered under the contract during the term thereof, and all service authorizations issued pursuant thereto.
- (3) That the contract may be canceled in advance of the expiration of its term by the presiding judge pursuant to service upon the special counsel of 10 days' advance written notice.

(b) The maximum contract amount shall be determined by the board of supervisors and included in the grand jury's annual operational budget. The maximum amount shall be subject to increase by the presiding judge through contract amendment during the term thereof, subject to and in compliance with the procedure prescribed by Section 914.5.

(c) The contract shall constitute a public record and shall be subject to public inspection and copying pursuant to the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). However, at the sole discretion of the board of supervisors, any or all of the following steps may be taken:

- (1) The nomination by the presiding judge, and any or all actions by the board of supervisors in commenting upon the nominee and the comments, may be made confidential.
- (2) The deliberations and actions may be undertaken in meetings from which the public is excluded, and the communication containing comments may constitute a confidential record which is not subject to public inspection or copying except at the sole discretion of the board of supervisors. Moreover, any written authorization by the presiding judge pursuant to paragraph (1) of subdivision (a) shall constitute a confidential record which is not subject to public inspection or copying except in connection with a dispute concerning compensation for services rendered.

§937 The grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as interpreter. While

his services are necessary, such interpreter may be present at the examination of witnesses before the grand jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the grand jury.

§938 (a) Whenever criminal causes are being investigated before the grand jury, it shall appoint a competent stenographic reporter. He shall be sworn and shall report in shorthand the testimony given in such causes and shall transcribe the shorthand in all cases where an indictment is returned or accusation presented.

(b) At the request of the grand jury, the reporter shall also prepare transcripts of any testimony reported during any session of the immediately preceding grand jury.

§938.1 (a) If an indictment has been found or accusation presented against a defendant, such stenographic reporter shall certify and deliver to the clerk of the superior court in the county an original transcription of the reporter's shorthand notes and a copy thereof and as many additional copies as there are defendants, other than fictitious defendants, regardless of the number of charges or fictitious defendants included in the same investigation. The reporter shall complete the certification and delivery within 10 days after the indictment has been found or the accusation presented unless the court for good cause makes an order extending the time. The time shall not be extended more than 20 days. The clerk shall file the original of the transcript, deliver a copy of the transcript to the district attorney immediately upon receipt thereof and deliver a copy of such transcript to each such defendant or the defendant's attorney. If the copy of the testimony is not served as provided in this section, the court shall on motion of the defendant continue the trial to such time as may be necessary to secure to the defendant receipt of a copy of such testimony 10 days before such trial. If several criminal charges are investigated against a defendant on one investigation and thereafter separate indictments are returned or accusations presented upon said several charges, the delivery to such defendant or the defendant's attorney of one copy of the transcript of such investigation shall be a compliance with this section as to all of such indictments or accusations.

(b) The transcript shall not be open to the public until 10 days after its delivery to the defendant or the defendant's attorney. Thereafter the transcript shall be open to the public unless the court orders otherwise on its own motion or on motion of a party pending a determination as to whether all or part of the transcript should be sealed. If the court determines that there is a reasonable likelihood that making all or any

part of the transcript public may prejudice a defendant's right to a fair and impartial trial, that part of the transcript shall be sealed until the defendant's trial has been completed.

§938.2 (a) For preparing any transcript in any case pursuant to subdivision (a) of Section 938.1, the stenographic reporter shall draw no salary or fees from the county for preparing such transcript in any case until all such transcripts of testimony in such case so taken by him are written up and delivered. Before making the order for payment to the reporter, the judge of the superior court shall require the reporter to show by affidavit or otherwise that he has written up and delivered all testimony taken by him, in accordance with subdivision (a) of Section 938 and Section 938.1.

(b) Before making the order for payment to a reporter who has prepared transcripts pursuant to subdivision (b) of Section 938, the judge of the superior court shall require the reporter to show by affidavit or otherwise that he has written up and delivered all testimony requested of him in accordance with that subdivision.

§938.3 The services of the stenographic reporter shall constitute a charge against the county, and the stenographic reporter shall be compensated for reporting and transcribing at the same rates as prescribed in Sections 69947 to 69954, inclusive, of the Government Code, to be paid out of the county treasury on a warrant of the county auditor when ordered by the judge of the superior court.

§938.4 The superior court shall arrange for a suitable meeting room and other support as the court determines is necessary for the grand jury. Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources.

Article 4 – Conduct of Investigations

§939 No person other than those specified in Article 3 (commencing with Section 934), and in Sections 939.1, 939.11, and 939.21, and the officer having custody of a prisoner witness while the prisoner is testifying, is permitted to be present during the criminal sessions of the grand jury except the members and witnesses actually under examination. Members of the grand jury who have been excused pursuant to Section 939.5 shall not be present during any part of these proceedings. No persons other than grand jurors shall be permitted to be present during the expression of the opinions of the grand jurors, or the giving of their votes, on any criminal or civil matter before them.

§939.1 The grand jury acting through its foreman and the attorney general or the district attorney may make a joint written request for public sessions of the grand jury. The request shall be filed with the superior court. If the court, or the judge thereof, finds that the subject matter of the investigation affects the general public welfare, involving the alleged corruption, misfeasance, or malfeasance in office or dereliction of duty of public officials or employees or of any person allegedly acting in conjunction or conspiracy with such officials or employees in such alleged acts, the court or judge may make an order directing the grand jury to conduct its investigation in a session or sessions open to the public. The order shall state the finding of the court. The grand jury shall comply with the order.

The conduct of such investigation and the examination of witnesses shall be by the members of the grand jury and the district attorney.

The deliberation of the grand jury and its voting upon such investigation shall be in private session. The grand jury may find indictments based wholly or partially upon the evidence introduced at such public session.

§939.11 Any member of the grand jury who has a hearing, sight, or speech disability may request an interpreter when his or her services are necessary to assist the juror to carry out his or her duties. The request shall be filed with the superior court. If the court, or the judge thereof, finds that an interpreter is necessary, the court shall make an order to that effect and may require by subpoena the attendance of any person before the grand jury as interpreter.

If the services of an interpreter are necessary, the court shall instruct the grand jury and the interpreter that the interpreter is not to participate in the jury's deliberations in any manner except to facilitate communication between the disabled juror and the other jurors. The court shall place the interpreter under oath not to disclose any grand jury matters, including the testimony of any witness, statements of any grand juror, or the vote of any grand juror, except in the due course of judicial proceedings.

§939.2 A subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the district attorney, his investigator or, upon request of the grand jury, by any judge of the superior court, for witnesses in the state, in support of the prosecution, for those witnesses whose testimony, in his opinion is material in an investigation before the grand jury, and for such other witnesses as the grand jury, upon an investigation pending before them, may direct.

§939.21 (a) Any prosecution witness before the grand jury in a proceeding involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, subdivision 1 of Section 314, Section 647.6, or former Section 647a, who is a minor, may, at the discretion of the prosecution, select a person of his or her own choice to attend the testimony of the prosecution witness for the purpose of providing support. The person chosen shall not be a witness in the same proceeding, or a person described in Section 1070 of the Evidence Code.

(b) The grand jury foreman shall inform any person permitted to attend the grand jury proceedings pursuant to this section that grand jury proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. The foreman also shall admonish that person not to prompt, sway, or influence the witness in any way. Nothing in this section shall preclude the presiding judge from exercising his or her discretion to remove a person from the grand jury proceeding whom the judge believes is prompting, swaying, or influencing the witness.

§939.3. In any investigation or proceeding before a grand jury for any felony offense when a person refuses to answer a question or produce evidence of any other kind on the ground that he may be incriminated thereby, proceedings may be had under Section 1324.

§939.4 The foreman may administer an oath to any witness appearing before the grand jury.

§939.5 Before considering a charge against any person, the foreman of the grand jury shall state to those present the matter to be considered and the person to be charged with an offense in connection therewith. He shall direct any member of the grand jury who has a state of mind in reference to the case or to either party which will prevent him from acting impartially and without prejudice to the substantial rights of the party to retire. Any violation of this section by the foreman or any member of the grand jury is punishable by the court as a contempt.

§939.6 (a) Subject to subdivision (b), in the investigation of a charge, the grand jury shall receive no other evidence than what is:

- (1) Given by witnesses produced and sworn before the grand jury;
- (2) Furnished by writings, material objects, or other things presented to the senses; or
- (3) Contained in a deposition that is admissible under subdivision 3 of Section 686.

(b) Except as provided in subdivision (c), the grand jury shall not receive any evidence except that which would be admissible over objection at the trial of a criminal action, but the fact that evidence that would have been excluded at trial was received by the grand jury does not render the indictment void where sufficient competent evidence to support the indictment was received by the grand jury.

(c) Notwithstanding Section 1200 of the Evidence Code, as to the evidence relating to the foundation for admissibility into evidence of documents, exhibits, records, and other items of physical evidence, the evidence to support the indictment may be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statement of a declarant made out of court and offered for the truth of the matter asserted. Any law enforcement officer testifying as to a hearsay statement pursuant to this subdivision shall have either five years of law enforcement experience or have completed a training course certified by the Commission on Peace Officer Standards and Training that includes training in the investigation and reporting of cases and testifying at preliminary hearings.

§939.7 The grand jury is not required to hear evidence for the defendant, but it shall weigh all the evidence submitted to it, and when it has reason to believe that other evidence within its reach will explain away the charge, it shall order the evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

§939.7.1 (a) If the prosecutor is aware of exculpatory evidence, the prosecutor shall inform the grand jury of its nature and existence. Once the prosecutor has informed the grand jury of exculpatory evidence pursuant to this section, the prosecutor shall inform the grand jury of its duties under Section 939.7. If a failure to comply with the provisions of this section results in substantial prejudice, it shall be grounds for dismissal of the portion of the indictment related to that evidence.

(b) It is the intent of the Legislature by enacting this section to codify the holding in *Johnson v. Superior Court*, 15 Cal. 3d 248, and to affirm the duties of the grand jury pursuant to Section 939.7.

§939.8 The grand jury shall find an indictment when all the evidence before it, taken together, if unexplained or uncontradicted, would, in its judgment, warrant a conviction by a trial jury.

§939.9 A grand jury shall make no report, declaration, or recommendation on any matter except on the basis of its own investigation of the matter made by such grand jury. A grand jury shall not adopt as its own the recommendation of another grand jury unless the grand jury adopting

such recommendation does so after its own investigation of the matter as to which the recommendation is made, as required by this section.

§939.91 (a) A grand jury which investigates a charge against a person, and as a result thereof cannot find an indictment against such person, shall, at the request of such person and upon the approval of the court which impaneled the grand jury, report or declare that a charge against such person was investigated and that the grand jury could not as a result of the evidence presented find an indictment. The report or declaration shall be issued upon completion of the investigation of the suspected criminal conduct, or series of related suspected criminal conduct, and in no event beyond the end of the grand jury's term.

(b) A grand jury shall, at the request of the person called and upon the approval of the court which impaneled the grand jury, report or declare that any person called before the grand jury for a purpose, other than to investigate a charge against such person, was called only as a witness to an investigation which did not involve a charge against such person. The report or declaration shall be issued upon completion of the investigation of the suspected criminal conduct, or series of related suspected criminal conduct, and in no event beyond the end of the grand jury's term.

TITLE 5. THE PLEADINGS

CHAPTER 1 – FINDING AND PRESENTMENT OF THE INDICTMENT

§940 An indictment cannot be found without concurrence of at least 14 grand jurors in a county in which the required number of members of the grand jury prescribed by Section 888.2 is 23, at least eight grand jurors in a county in which the required number of members is 11, and at least 12 grand jurors in all other counties. When so found it shall be endorsed, "A true bill," and the endorsement shall be signed by the foreman of the grand jury.

§943 When an indictment is found, the names of the witnesses examined before the Grand Jury, or whose depositions may have been read before them, must be inserted at the foot of the indictment, or indorsed thereon, before it is presented to the Court.

§944 An indictment, when found by the grand jury, must be presented by their foreman, in their presence, to the court, and must be filed with the clerk. No recommendation as to the dollar amount of bail to be fixed shall be made to any court by any grand jury.

§945 When an indictment is found against a defendant not in custody, the same proceedings must be had as are prescribed in Sections 979 to 984, inclusive, against a defendant who fails to appear for arraignment.